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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,025	03/08/2001	Christopher Keith	125465	6553

52531 7590 12/18/2007  
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EXAMINER

MILEF, ELDA G

ART UNIT	PAPER NUMBER
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3692

MAIL DATE	DELIVERY MODE
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12/18/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/802,025		KEITH, CHRISTOPHER	
	<b>Examiner</b>		<b>Art Unit</b>	
	Elda Milef		3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 September 2007.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20,22-92 and 98-128 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20,22-92 and 98-128 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/4/07;10/9/07</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/4/2007 has been entered.

***Claim Objections***

2. Claim 1 is objected to because of the following informalities: "wherein the the trading process is configured with the order..." should be --wherein the trading process is configured...--. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-92, 98-111, 127, 128 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Re claims 1, 127, 128:** The meaning of the limitation "wherein the trial order is not a regular order to buy or sell and does not result in a trade for the item in the order" is unclear. Clarification is required regarding the definitions of the phrases "regular order" and "trial order" in the context claimed, as well as an indication of where in the specification this limitation can be found.

Claims 2-92, 98-111 are rejected because of their dependency to the rejected claims.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for

establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claims 1-18, 20, 22-41, 43-65, 67-81, 86, 89-92, 104-108, 111-128 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallman (U.S. Patent No. 6,601,044).

**Re claim 1:** Wallman discloses:

configuring a trading process in accordance with the order, wherein the order identifies an item for trading-see col. 12 lines 29-32; col. 13 lines 19-37;

automatically performing, at the trading process, market discovery according to a discovery strategy selected from a plurality of discovery strategies by the user, wherein the discovery strategies are configured to obtain market information for the item in the order according to different discovery methodologies ("the computer-based system of the present invention also allows the investor to be presented with suggested portfolios created through other means-such as a recommended portfolio that reflects a specified strategy

[selected strategy], such as the ten under performing stocks from the Dow Jones Industrial Index, or from a selected analyst, or from a magazine or other publication, or from a selected organization or through collaborative techniques [plurality of discovery strategies]. As shown in FIG. 4B, the investor can select from a category of portfolios 71-76, under each of which the investor can then select a particular type of portfolio within the category...")-see col. 30 lines 32-67. Although Wallman does not explicitly state that a market discovery is performed, it is obvious that if an investor would like information on the trading price or a suggested portfolio based on specified strategy as taught by Wallman, that some type of market discovery or research into the price of the security must be performed. Further, Wallman teaches ("This database is constantly updated with pricing, capitalization, price to earnings ratio, etc. from various stock reporting services known in the art.")-see col. 26 lines; see col. 10 lines 41-46; In addition, Wallman discloses the following in cols. 13-18: various forms of market, price discoveries including trading pricing information, recommendation or suggestion of securities; Dow Jones Industrial Index data; affinity group investment data and methods of investing; wide variety of data about investments

using various multivariate analysis; investing based on the size or type of company;

wherein the selected discovery strategy includes automatically sending a trial order to the at least one market process and receiving a report from the market process indicating how the trial order would have been paired if it had been a regular order, said report providing information about current market depth for the item at a price ("according to yet another aspect of the current invention, the investor could simply click on a button on the graphical investor interface and receive a proposed portfolio")-see col. 16, lines 2-20; ("Therefore, as a result of the investor's desire to invest in "big companies" a series of stocks would be selected and displayed to the investor which fits into the characteristics desired...")-see col. 18, lines 13-16 and ("suggested portfolios are created by the computer-based system") -see col. 30, lines 32-46; ("The processor then transmits the actual trading pricing information regarding each asset/liability traded by a particular investor to the particular investor.")-see col. 13, lines 20-38; also see cols. 26-27;

Furthermore, Wallman discloses:

after performing said market discovery, automatically acting upon the order at the trading process according to an action strategy selected from a plurality of action strategies by the user based on information obtained from performing the market discovery ("computer-based system...allows the investor to direct that the portfolio or specified individual securities in the portfolio be purchased or sold or modified as a portfolio transaction.") [user choice of a plurality of action strategies]- see col. 11 lines 31-38 and ("The computer-based system of the present invention, therefore, provides ... automatic and expert management for an investor who wishes to be completely "taken care of".) -col. 44 lines 57-63; see col. 11 lines 30-34; col. 37 lines 40-47).

wherein the at least one market process and the trading process are software programs operative on the same trading platform. ("FIG. 6 depicts an exemplary block diagram of the computer-based system of the present invention. It depicts an investor's computer 11a connected to a communication network 12, such as the Internet, which is then connected to a web server 14 that stores the main program for controlling trading and investor access...")-see col. 28 line 11- col. 36;



wherein the trading process is configured with the order, the discovery strategy, and the action strategy prior to automatically performing said market discovery ("The present invention does this by providing a computer-based system to which the investor provides his preferences, which system generates a portfolio that reflects the investor's preferences or assists the investor in selecting a portfolio") [action strategy] -see col. 11 lines 29-44; ("the processor creates a percentage allocation of investment classes for each investor based on allocation model input from each investor ...") [action strategy]-see col. 11 line 65 to col. 12 line 11; ("the processor receives actual trading pricing information regarding the single buy order and the single sell order for each of the assets/liabilities from the third party trading system...[discovery strategy] the investor program recommends modifications to the investor portfolio...to make the investor portfolio match the percentage allocation previously determined..."[action strategy])-see col. 13 lines 19-38; (The specifications could include a minimum number of stocks...a maximum concentration in any particular stock...and a maximum risk level..."[action strategy])-see col. 14 lines 58 to col. 15 line 4. Also, cols. 15-18.

For examination purposes, the Examiner is interpreting the limitation "wherein the trial order is not a regular order to buy or sell and does not result in a trade for the item in the order" to mean that the trial order is a proposed portfolio. Wallman discloses a proposed portfolio in col. 16 lines 2-20.

**Re claims 2-4,8, 45:** Wallman discloses wherein the trading process is operative on a platform supporting a plurality of trading processes able to interact with the at least one market process; the platform supports at least two market processes having respective market methodologies selected from the set of market methodologies ("the computer -based system of the present invention also allows the investor to be presented with suggested portfolios created through other means-such as a recommended portfolio that reflects a specified strategy, such as the ten under performing stocks from the Dow Jones Industrial Index, or a selected analyst...")-see col. 30, lines 34-41 and col.40, lines 51-58.;

discovery strategy and setting parameters (" Screen 4 (25) also elicits information from the investor that is employed in creating a risk-return preference function for the investor. Such information includes volatility levels, risk, required rate of returns (based on the above asset allocation model), etc.

The utilization of various parameters to establish that function is then employed to set initial defaults, which can be modified if desired by the investor in Screen 5(26)”) -see col. 29, lines 50-57.

Automatically acting includes bidding or offering at the market process based on market discovery results.-see cols.11-13.

**Re claim 5,7:** Wallman discloses wherein the discovery strategy is selected from at least two of (i)external discovery, (ii) obtain posted prices, (iii) query the market process, and (iv)query an information provider and wherein discover strategy includes discovery from at least one informal market (“individual stocks (e.g., Intel) can be analyzed over various periods of time...information can be provided to the investor...such an investor might have specific desires for stocks which might be expressed in terms of a desire to invest in “big companies” or “high tech” stocks...”)-see cols. 17, line 9 - cols. 18, lines 1-44.

**Re claims 9,15,27-28,47-48,56,62:** Wallman discloses market discovery depends on the characteristics of the order and market process (“Therefore, as a result of the investor’s desire to invest in “big companies” a series of stocks would be selected

...which fits into the characteristics desired by the investor")-  
see cols. 17-18, col. 18, lines 13-16 in particular.

**Re claim 6:** Wallman discloses posted prices are stored  
in a file accessible to all trading processes authorized by the  
market processes. ("a web server that stores the main program  
for controlling trading and investor access...")-see Overall  
System, col. 28, lines 11-27.

**Re claims 10,11,13,14,57,58,60,61,80:** Wallman discloses:  
the order is a short term option request and option exercise  
and the order has a negotiable price-see col. 40, lines 51-57;

the order is part of a linked order -see col. 21, lines 21-  
28.

**Re claims 12, 22, 59:** Wallman discloses:  
wherein the order is a trial order ("according to yet  
another aspect of the current invention, the investor could  
simply click on a button ton the graphical investor interface  
and receive a proposed portfolio")-see col. 16, lines 2-20  
and wherein the report also indicates the price at which the  
trial order would have been paired if it had been a regular  
order ("The processor then transmits the actual trading pricing  
information regarding each asset/liability traded by a

particular investor to the particular investor.")-see col. 13, lines 20-38; also see cols. 26-27.

**Re claims 16-18,63-65:** Wallman discloses:

The market process operates according to an auction methodology (see col. 8, lines 50-51); a match methodology (see col. 22, para. 5); a negotiation methodology (-see col.26, lines 46-67 - col. 27, lines 1-28); an order book with crowd price improvement methodology (Col. 11, lines 53-58).

**Re claim 20:** Wallman discloses wherein market discovery discovers order depth information at a price other than the best price.-see col. 11, lines 53-64, col. 26, lines 1-9.

**Re claims 23-24:** Wallman discloses:

the trading process has satisfied a condition at the market process, and further comprising automatically receiving a new contra-side best market price in advance of other market participants while the condition at the market process is satisfied and wherein the condition is providing the best market price for a side of the market-see col. 26, lines 1-9.

**Re claims 25:** -see Figs. 11-13, 16 (157,168-170)

**Re claims 26,29,30-35,46,49,50,55:** Wallman discloses:

wherein the discovery and action strategy is represented in a decision table having rules, each rule having at least one condition and at least one action to be taken when the condition is satisfied.-see Fig. 15(157), cols. 23-27, 38-40, and in particular ("In the asset allocation model 1: the investor is first queried...the investor's risk tolerance and financial goals... The asset allocation model determines a percentage allocation in each of the general investment types according to a set of known tables.")-see col. 23, lines 20-40.

wherein the decision table includes a holding tank for storing at least one order waiting for a market related event and wherein at least one of the rules also specifies a time for acting on its at least one action.-see col. 22, para.4, col. 26 lines 65-67 -col. 27, lines 1-27, col. 39, lines 24-32 and cols. 39-40.

wherein the automatically performing market discovery includes applying the decision table to process the order when the order is received; when the price discovery is completed; when a bid or offer relating to the order is received; when notice of a price improvement opportunity is received.-see cols. 39-40.

wherein the decision table includes, in at least one of a condition and an action of at least one of the rules, a nested decision table.- see cols. 39-40.

**Re claim 36,53:** the at least one action is to request information from an order room-see cols. 39-40 in particular col. 39, lines 55-60.

**Re claims 37 and 38** -see col. 22, para. 5.

**Re claim 39**-see cols. 22-28 and ("set of known tables")- col. 23 lines 35-41.

**Re claims 40-41:** the trading proposal specifies a choice of negotiation methodology; trading methodology is selected from personal negotiation, direct negotiation via a computer system, and brokered negotiation. -see col.26, lines 46-67 - col. 27, lines 1-28.

**Re claims 43 and 44:** Wallman discloses:

Providing a price inquiry to the market process, and requesting that the market process notify its crowd of a price improvement opportunity; trading at a price provided by the crowd. -see col. 11, lines 46-65

**Re claims 51,52,54:** Wallman discloses:

wherein the automatically acting includes

applying the decision table to determine an action to take when notice is received of a price improvement opportunity.-see col. 11, line 53-col. 17, line 33.

wherein the automatically acting includes applying the decision table to determine an action to take when execution of the order is reported -see col. 26, line 65-col. 28, line 9.

wherein the at least one action is to transfer to another rule (original).-see cols. 26-28.

**Re claims 67,68:** Wallman discloses:

wherein the action strategy depends on a relationship between the trading process and the market process.

wherein the automatically acting includes routing the order to at least one of a plurality of markets.-see Abstract.

**Re claim 69:** Wallman discloses:

wherein the plurality of action strategies include at least two of (i) request information from an order room, (ii) retain the order, (iii) post the order at the market process, and (iv) join a crowd at the market process.-see col. 15, line 11- col. 18, line 16.

**Re claim 70:** Wallman discloses:

wherein posting the order includes providing



discretion level information indicating data about the order that can be provided to other trading processes using the market process.-see col. 28, lines 11-37.

**Re claim 71: Wallman discloses:**

wherein posting the order includes providing an order tail indicating the markets at which the order is posted.-see col. 33, lines 44-54.

**Re claims 72-75: Wallman discloses:**

wherein the market process:  
assumes that the posted order is immediately executable;  
requests affirmation of availability before executing the order;

wherein the action strategy depends on whether the market process provides a selected order handling feature.

wherein the selected order handling feature is chosen from discretion level matching, providing a first look, and contra-party preference updating.

-see col. 43 lines 44-48 and col. 11, col. 22, para. 5, col. 26, line 65- col. 28, lines 9.

**Re claims 76 -79: Wallman discloses:**

wherein automatically acting includes determining that a linked order should be executed, the linked order including individual orders respectively associated with prices

and quantities, and automatically sending the linked order to an execution process for execution such that the individual orders are executed only if all of the individual orders can be executed at the associated prices.-see col. 11, lines 46-64, and col. 15, lines 11-45.

wherein the automatically determining is based on the market discovery.-see cols. 13, 17,26, 40 (lines 39-50)

wherein the automatically determining includes evaluating an objective function incorporating market information for the individual orders in the linked order.-see cols. 15-17.

wherein the objective function includes at least one condition for each individual order, and wherein the automatically determining includes evaluating how many of the conditions are satisfied, and comparing the number of satisfied conditions with a threshold to decide if sufficient conditions are satisfied so that the linked order should be executed.

("According to another aspect of the present invention...aggregating the transactions of a single investor with the transactions of other investors over an applicable characteristic of the assets or liabilities...")-see col. 15, lines 11-25.

**Re claim 81:** Wallman discloses that the execution process is part of a platform process-see col. 26, lines 65-67- col. 27, lines 1-26.

**Re claims 86, 89-92:** Wallman discloses:

posting the order to the at least one market process and automatically affirming availability of shares of the order to the at least one market-see col. 43, line 58- col. 44, lines 1-25.

further comprising checking availability of the shares before automatically affirming;

wherein the checking availability is based on a number of unpaired shares of the order and a number of in process shares of the order;

further comprising marking shares as in process after affirming their availability;

wherein the shares are marked as in process for the market to which the shares were affirmed, and further comprising summing the in process shares at all of the markets at which the order is represented to obtain an in process number of shares.  
-see col. 15, lines 25-45; col. 22, pars. 4 and 5; col. 26, line 65-col. 27, lines 1-28; col. 33, lines 44-54.

**Re claims 104-105:** Wallman discloses:

wherein automatically acting includes  
posting the order to the at least one market process,  
receiving a trading proposal for the posted order from a contra-  
side trading process.-see cols. 11-12, 15, 22;  
automatically determining how to respond to the trading proposal  
in accordance with a decision table having rules, each rule  
having at least one condition and at least one action to be  
taken when the condition is satisfied.-see Fig. 15 (157); cols.  
23-27, 38-40.

**Re claims 106-108:** Wallman discloses:

wherein automatically acting includes  
registering in a crowd of the at least one market process,  
automatically receiving notice of an opportunity to improve upon  
a book price, automatically determining whether to improve upon  
the book price, and automatically providing a crowd price that  
improves the book price when the determination is positive.-see  
col. 11, lines 25-65; col.43, line 58 - col. 44, lines 1-28.

wherein the automatically determining is in accordance with  
a decision table. -see Fig. 15 (157)

wherein the automatically determining includes requesting  
an instruction from a user.-see col. 44, lines 58-63

**Re claim 111:** Wallman discloses:

Further comprising reporting results of automatically acting to a user. -see col. 33, lines 33-54.

**Re claims 112:** Wallman discloses:

multiple orders of a user comprising configuring multiple trading processes, wherein each trading process is configured in accordance with an order in the user's multiple orders, and wherein each order identifies at least one item for trading -see portfolio asset allocation;-col. 11 lines 25-65; col. 12 lines 29-42; cols. 25; multiple and intra-day investment decisions of the investor-col. 20 lines 59-60; wherein the at least one market process and multiple trading processes are software programs that exist independently of each other are separately executable and are operative on the same trading platform of the computing system-see col. 12 lines 29-32; col. 27 line 13 to col. 28 line 37;

The remaining claim limitations are similar to those in claim 1 and are therefore rejected using the same art and rationale.

**Re claim 113 and 114:** Wallman discloses:

wherein an action in each of the action strategies is conditionally taken based on market information obtained from

automatically performing said market discovery; wherein the discovery strategy and action strategy for each trading process are selected by the user prior to automatically performing said market discovery ("The present invention also permits the collection of securities into pre-packaged portfolios...having a portfolio that reflects some strategy or preference determined by some other means, For example, a currently popular strategy is to invest in the ten of the thirty stocks comprising the Dow Jones Industrial Index...Consequently, currently, investors wishing to follow this strategy generally purchase an interest in a unit investment trust.")-see col. 15 lines 46-58; cols. 15-16; col. 17 line 55 to col. 18 line 16; col. 37 lines 44 to col. 38 line 12; col. 43 lines 49-52; col. 44 lines 61-63.

**Claim 115** has similar limitations found in claims 7, 12, and 21 above, and therefore are rejected by the same art and rationale.

**Re claim 116:** Wallman discloses at least one market process and the multiple trading processes are software programs that exist independently of each other-see col. 12 lines 29-32; col. 27 line 13 to col. 28 line 37.

**Claim 117 and 118** have similar limitations found in claims 1 and 112 above, and therefore are rejected by the same art and

rationale. Furthermore, Wallman discloses a computing system wherein one or more market processes and the one or more trading processes are software programs that are separately executable and are operative on the same trading platform of the computing system-see col. 12 lines 29-32; col. 27 line 13 to col. 28 line 37;

**Claims 119, 120, 121** have similar limitations found in claims 114-116 above, and therefore are rejected by the same art and rationale.

**Re claims 122-126:** Further a computer-accessible medium having executable instructions stored thereon would have been necessary to perform the method of previously rejected claims 112-116 and are therefore rejected using the same art and rationale.

**Re claim 127:** Further a system would have been necessary to perform the method of previously rejected claim 1 and is therefore rejected using the same art and rationale.

**Re claim 128:** Further a computer-accessible medium having executable instructions stored thereon would have been necessary to perform the method of previously rejected claim 1 and is therefore rejected using the same art and rationale.

5. Claims 19 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallman as applied to claims 15 and 62 above further in view of Korhammer (U.S. Patent No. 6,278,982).

**Re claims 19, 66:** Wallman does not specifically disclose wherein the market process operates according to an order book with crowd price improvement methodology. Korhammer however, teaches ("The customized order book is displayed on the customer's terminal 101 normally organized by security and price. This allows the customer 10 to compare the information from all of the ECNs 50 and 51 of which it is a member; NASDAQ's market makers 21 and 22; and ECN353 best bid an offer in a single display to simplify the decision process. ") -see col. 7 lines 6-13. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wallman to include a customized order book containing information about securities from all of the electronic communication networks as taught by Korhammer in order for the investor to perform analytical calculations from this data which is displayed and used to aid the investor in making buy/sell decisions.



6. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wallman as applied to claim 40 above, in view of Minton (U.S. Patent No. 6,014,643).

**Re claim 42:** Wallman does not specifically disclose checking the disclosure level of the contra-party trading process before forwarding the trading proposal. Minton however, teaches ("Activation of the negotiate field will make a notation in trading screen 400 that the price specified for this buy order is negotiable. To negotiate an order, a user in the individual trading system can contact another user through e-mail, or video conferencing. During this process, two users attached to the individual securities trading network can negotiate the sale or purchase of a given security. This negotiation process can be done anonymously by using only a user's user identification. If RMST only field is activated, a user's order will only be displayed to other users of the individual securities trading network. If this field is not activated, the individual securities trading network will publicize the user's offer to buy to other networks where

securities are bought and sold.")-see col. 11 lines 27-41. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wallman to

include activating a field on the trading screen indicating whether or not a trade is anonymous prior to trading in order to provide the investor with a choice of publicizing the trade or maintaining confidentiality through anonymous trading.

7. Claims 82-85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallman as applied to claim 1 above, in view of Gutterman (U.S. Patent No. 5, 297,031).

**Re claims 82 and 85:** Wallman discloses wherein the order is a short term option request, and the automatically acting includes requesting the short term option from the market process-see col. 40, lines 51-57.

Wallman does not specifically disclose:  
the term of the option being less than one minute;  
the term of the short term option is less than one second.  
Gutterman however, teaches ("A 'local' can 'scalp' over very short periods (liquidating positions within seconds or minutes of entering the transactions.")-see col. 2 lines 11-24, also col. 1. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wallman to include liquidating positions within seconds

or minutes as taught by Gutterman in order for the trade take advantage of price movements occurring at a rapid pace.

**Re claims 83, 84:** Wallman discloses receiving notice from the market process that the short term option was granted. -see col. 11, lines 46-65 , col. 33, lines 34-54, col. 40, lines 51-57 and forwarding the notice that the short term option was granted to an order room.-see col. 33, lines 34-54.

8. Claims 87, 88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallman in view of Jain et al. (US Patent No. 6,343,278).

**Re claims 87 and 88:** Wallman does not disclose automatically canceling the affirmed shares from another of the at least one market processes and further comprising enqueueing an instruction to cancel at least one of the affirmed shares when the other market indicated that the at least one affirmed share was in process at the other market. Jain discloses ("The banknode will automatically cancel all the orders under the order limit...")-see col. 12, lines 6-10 and col. 11, lines 59-67 and col. 12, lines 1-25. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wallman to include automatically canceling an

order as was done by Jain in order to prevent using an order limit to take unfair advantage of other traders, and to facilitate matching of trades.

9. Claims 98-103 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallman as applied to claim 1 above, and further in view of May (U.S. Patent No. 6,317,727).

**Re claim 98:** Wallman discloses:

wherein automatically acting includes providing a preference designation of anonymous to the market process, and automatically participating in a trade at the market process with a contra-party trading process that is unaware of the identity of the trading process -see col. 9 lines 60-65. Wallman does not explicitly disclose obtaining a preference rating from the market process for the trading process. May however, teaches ("It is another object of the present invention to provide anonymous bi-lateral credit screening which determines trade eligibility based on both trader's credit preferences...Indication of whether a counterparty can enter into the proposed trade is conveyed to the respective trader, preferably using a color coding scheme in which various colors

represent the relevant credit status with regard to the viewing trader. The complex check performed by the system may be embodied in a simple yes/no statement...")-see col. 5 line 43-col.7 line 29 and Fig. 7. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wallman to include obtaining a credit preference rating as taught by May in order to reduce the risk that a trade transaction may be subsequently invalidated by lack of credit.

**Re claims 99-103:** Wallman does not specifically disclose:

wherein automatically acting includes providing information to a preference updating process, and automatically deciding whether to trade with another market participant based on a preference rating of the other market participant determined by the preference updating process. May however, teaches credit preference updating see col. 26 lines 54-col. 7 line 64 and trading decisions based on rating -see cols. 5-7;

wherein the information comprises a rule for determining the preference rating of the other market participant Credit preferences are the methods or rules selected by a business unit

within a credit group for the system 10 to use to screen prices (bids or offers) and trades against all other legal entities. wherein the information comprises a rating for the other market participant. May teaches ("Credit preferences are the methods or rules selected by a business unit within a credit group for the system 10 to use to screen prices (bids or offers) and trades against all other legal entities."- col. 23 lines 57-65;

wherein the preference updating process is part of a platform process. May teaches system architecture col. 11 line 59-col. 12 line 16.;

wherein the preference updating process is part of a market process. May teaches ("The market inventory module38...performs a second and final credit preference check...)- see col. 12 lines 3-10.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Wallman to specifically include credit preference updating, trading based on the updated credit preferences, rules for rating bids and offers based on credit preferences, wherein the credit preference updating is performed by a central processing center, and wherein the credit preference updating is part of the market

inventory module as taught by May in order to implement a system which screens bids/offers based on credit preferences so as to reduce the risk that a trade transaction may be subsequently invalidated by lack of credit.

10. Claims 109-110 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallman in view of More ( More Companies Buying Back Stock. The Salt Lake Tribune. Salt Lake City, Utah: April 9, 2000. pg. E.3).

**Re claims 109, 110:** Although Wallman discloses various methods of risk/return analysis in cols. 29-33, Wallman does not specifically disclose:

wherein the order is associated with a liquidity curve, and automatically acting includes posting the order to the at least one market process that determines a premium offered or demanded for the order at a particular price based on the liquidity curve and that pairs the order in accordance with its premium;

wherein the market process determines the premium when the order is posted thereto.

It is well known in the art that supply and demand influence a stock price and are taken into consideration when trading

securities as evidenced by More ("The basic economic principle says that as either supply shrinks or demand rises, a price will go up.")-see p. 2, para. 3. It would have been obvious to one having ordinary skill in the art at the time the invention was made to consider supply and demand and its affect on trading securities as shown by More in order to perform risk analysis and calculate premiums or discounts associated with the trading price.

***Response to Arguments***

11. In response to the applicant's argument that Wallman does not disclose the claim element of "automatically performing, at the trading process market discovery according to a discovery strategy selected from a plurality of discovery strategies by a user, wherein the discovery strategies are configured to obtain market information for the item in the order according to different discovery methodologies." The applicant's attention is directed to col. 30 lines 32-40 wherein Wallman discloses ("the computer-based system of the present invention also allows the investor to be presented with suggested portfolios created through other means-such as a recommended portfolio that reflects a specified strategy, such as the ten under performing stocks from the Dow Jones Industrial



Index, or from a selected analyst, or from a magazine or other publication, or from a selected organization or through collaborative techniques." ). It is obvious that if a strategy is chosen by the investor, market discovery would occur. For example, if the investor would like to invest in under performing stocks from the Dow Jones Industrial Index, the current market information such as pricing must be acquired in order to propose a suggested portfolio to the investor. Wallman discloses a system wherein a database is constantly being updated with pricing, capitalization, price to earnings ratio, etc. from various stock reporting services known in the art.-see col. 26 lines 1-3.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,377,940-cited for its reference to an automated exchange method and device which automatically checks the best bid/offer from other exchanges.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elda


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Milef whose telephone number is (571)272-8124. The examiner can normally be reached on Monday -Thursday 8:30 am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571)272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Elda Milef  
Examiner  
Art Unit 3692

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KAMBIZ ABDI  
SUPERVISORY PATENT EXAMINER

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